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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

C.C.,

Petitioner,

v.

SUPERIOR COURT OF SAN
FRANCISCO CITY AND COUNTY,

Respondent,

SAN FRANCISCO HUMAN SERVICES
AGENCY et al.

Real Parties in Interest.

A136763

(San Francisco City & County Super.
Ct. No. JD11-3312)

C.C. (Mother) seeks extraordinary relief from an order of the San Francisco City and County Superior Court, Juvenile Division, entered September 28, 2012, which terminated her reunification services after a six-month status review hearing, and set a hearing under Welfare and Institutions Code section 366.26¹ to select a permanent plan for J.C. (born October 2011). Mother contends the juvenile court erred in finding that the San Francisco Human Services Agency (Agency) offered or provided her with reasonable services, and the Agency further failed to provide her with sufficient visitation with her infant son, contrary to the court's visitation order. We conclude substantial evidence supports the juvenile court's finding concerning reasonable services, and find no error in

¹ Further statutory references are to the Welfare and Institutions Code.

the Agency's efforts to provide visitation. Accordingly, we deny Mother's petition on the merits.²

BACKGROUND

The Agency initiated this proceeding on October 27, 2011, when Mother with a history of abusing heroin and methamphetamines, gave birth to her son J.C. J.C.-J was born prematurely with signs of drug withdrawal and was detained while still in the hospital.

The Agency's petition alleged the infant J.C. to be a child described by section 300, subdivision (b), in that: Mother had a substance abuse problem impairing her ability to care safely for the child; she had failed to benefit from prior residential or outpatient drug abuse treatment programs; she had endangered the child's health by using opiates, methadone, methamphetamines, and benzodiazepines during her pregnancy; and she had tested positive for opiates at J.C.'s birth. Mother initially expressed willingness to engage in services in order to have J.C. returned to her care. The Agency provided her with referrals for drug abuse evaluation and treatment a week before filing the petition on October 27.

The juvenile court ordered J.C.'s formal detention on October 28, authorizing the Agency to release the baby to Mother's care if she enrolled and remained in a residential treatment program. Mother was advised her participation in services might be limited to six months, due to the child's young age, if the petition were sustained and she failed to make significant progress in court-ordered services. (See § 366.21, subd. (e).)

A jurisdictional/dispositional report, filed January 6, 2012, stated Mother twice failed to complete residential treatment programs, had been arrested for theft on multiple occasions, and had a restraining order in place requiring her to "stay away" from a store in San Francisco. Mother had been arrested most recently on the preceding November,

² Section 366.26, subdivision (l)(1)(A), bars review on appeal if the aggrieved party has not made a timely writ challenge to an order setting a hearing under section 366.26, and encourages the appellate court to determine such writ petitions on their merits. (§ 366.26, subd. (l)(4)(B).)

when she was charged with three counts of receiving or possessing stolen property, in addition to two outstanding arrest warrants. Mother's whereabouts were unknown after her release from jail on December 6. Mother left two telephone messages with the Agency—one on December 7 and another 9 days later—in which she expressed her intent to enter a residential treatment program, as well as her desire to have visitation with J.C. But the Agency had no further contact from her afterward, up to the time the jurisdictional/dispositional report was completed on January 5. As of the time of this report, Mother had not yet had visitation with J.C., who had been placed in foster care after his discharge from the hospital.

The assigned social worker (SW) recommended a case plan that called for Mother to complete a residential drug abuse treatment program, to participate in individual therapy to address her substance abuse and parenting issues, to complete a parenting education program, and to maintain suitable housing and regular visitation. The SW recommended Mother be offered services in accordance with this plan, despite the fact Mother had so far failed to demonstrate any sustained interest in caring for J.C., and the SW doubted whether she could follow through with the steps necessary to have the child returned to her care.

On January 11, 2012, the juvenile court sustained the above-mentioned allegations under section 300, subdivision (b). The court directed the Agency to provide services to Mother—who did not appear on that date—and directed Mother to contact the Agency regarding visitation.

The following month, the Agency filed a section 388 petition in order to change J.C.'s placement. The Agency had located and approved a maternal cousin of J.C., who resided in Northridge, Los Angeles County. The Agency had previously been reluctant to recommend such a remote placement, given Mother's expressed interest in visitation. But, as of the filing of the section 388 petition in February, Mother had made no effort to visit the infant. The juvenile court granted the petition, and J.C. was placed with his relative in Northridge on February 9.

A newly assigned SW filed the Agency's report on June 22, 2012 for the six-month status review hearing. This SW reported Mother maintained minimal involvement with the Agency and had made no effort to visit J.C. Mother had telephoned on January 25 to express her desire that her own mother should be given legal guardianship of J.C.³ On January 30, the previously assigned SW met with Mother and referred her to the Homeless Prenatal Program for drug abuse treatment and support. At that meeting, Mother reported her own efforts to enroll in residential treatment with the help of her parole officer, and that she had resumed methadone maintenance.

When the newly assigned SW received the case on March 1, Mother's whereabouts were unknown. The SW attempted unsuccessfully to reach Mother through telephone messages and contacts with relatives. The SW learned Mother had been arrested again on March 19, 2012, on charges of burglary, forgery, receiving stolen property, and numerous other counts. On April 12, the same day the SW received this news, she contacted Friends on the Outside in an effort to obtain services for Mother during her incarceration. The SW visited Mother in jail on April 25, when Mother informed her that she was seeking, through her public defender, placement in a residential drug abuse treatment program in lieu of incarceration, and she wanted to reunify with J.C. in the residential program. The SW later learned, however, from the district attorney's office, that Mother was being offered a plea bargain with components of custody and probation, but not residential treatment in lieu of custody.

Because of the circumstances of J.C.'s premature birth, the SW was concerned for his safety in traveling regularly from Northridge to San Francisco for visitation with Mother, and to address this concern the SW consulted with the minor's physicians and public health nurse. After obtaining assurances that the child could safely travel, the SW scheduled the first visit with Mother for June 6. This visit—for a supervised period of two-to-three hours in jail—occurred with the support of Friends on the Outside.

³ J.C.'s placement with his maternal grandmother was complicated and ultimately rejected, due to reported issues of alcohol abuse and mental instability, as well as the need for approval of an interstate transfer.

In the report prepared for the six-month status review hearing, filed June 22, 2012, the assigned SW stated Mother had not yet demonstrated her ability to maintain suitable housing or a legal source of income, could not yet meet J.C.'s basic needs, had made no effort to visit with the child until her arrest in March, and continued to have a serious drug problem. Mother failed to follow through with multiple referrals for residential drug treatment, and failed to begin the individual therapy component of her case plan. Mother reported, however, that she had begun drug treatment and parenting education classes in jail. Under these circumstances, the SW did not believe it was likely Mother could reunify with J.C. within the 12 months from the date of his initial removal in October 2011, and she recommended the termination of Mother's services. The juvenile court set the contested six-month hearing for September 28, near the conclusion of this 12-month period.

In an addendum report prepared for that hearing, filed September 11, 2012, the SW noted Mother remained incarcerated in San Francisco County Jail, and the SW had received from the sheriff's office a report that Mother had tested positive for methamphetamine use while in jail. Mother's appointed counsel then related to the SW that she, too, had received a report from the sheriff's office, to the effect that Mother had not tested positive for methamphetamine, but rather had gotten into a fight with another inmate. After an investigation into these conflicting reports, the sheriff's office concluded Mother had forged a deputy sheriff's signature in order to generate a second report contradicting the original report of her drug abuse while in jail. Mother admitted the forgery and was placed in lock-up for 30 days, during which time her visitation privileges and other reunification services were suspended. On September 5, Mother was sentenced after entering a guilty plea to one count of identity theft. It appears her sentence included one year's custody, of which she was obliged to serve six months, with credit for time served since her arrest in March 2012. Mother was afterwards required to enter a residential drug abuse treatment program for 18 months.

With regard to visitation, the addendum report noted that a second visit, following the first visit on June 6, 2012, was delayed by a change in the contractor providing

supervision at the jail. The second visit between Mother and J.C. occurred at the jail under the new supervision contractor, on July 9, but a third was cancelled due to the illness of the foster parent who was to bring J.C. from Northridge. A timely rescheduling of that visit was frustrated by the expense of last minute airfare and the conflict of a medical appointment for J.C. The sheriff's office sought to cancel two visits the SW had scheduled in August, due to Mother's disciplinary confinement in lock-up. Only the second of these visits was cancelled, however, as J.C. had already traveled to San Francisco for the first visit. The addendum report concluded with the SW's recommendation not only to terminate Mother's services, but to allow no further visitation due to the hardship that travel presented to J.C. and his foster parents.

Mother appeared at the contested six-month hearing on September 28, 2012. In addition to the six-month hearing report and addendum report summarized above, the juvenile court heard testimony from the assigned SW and several other witnesses. The SW testified Mother, after her release from the San Francisco County Jail on September 18, had been remanded to the San Mateo County Jail on an outstanding arrest warrant. The SW testified to Mother's failure to engage in services during the five months before her incarceration in March 2012, and her evident failure to benefit from the services she had engaged in during her incarceration.

At the conclusion of the six-month hearing, the juvenile court found there was a substantial risk of detriment to J.C. should he be returned to Mother's care, and there was not a substantial probability of returning him safely to Mother's care within the next six months. The court further found the Agency had offered or provided Mother with reasonable services during the period under review, and ordered the termination of her reunification services. The court authorized supervised visitation—"if Mother is in a program,"—but not otherwise.

Mother's petition followed. (§ 366.26, subd. (I).)

DISCUSSION

I. Reasonable Services

Mother contends the juvenile court's finding—that the Agency offered or provided her with reasonable services—is not supported by substantial evidence. She asserts in particular the SW assigned to her case on March 1, 2012, made no “real effort” to contact her, “let alone” offer her reasonable services. Citing to SW's testimony, Mother asserts the SW made one attempt to reach Mother by telephone, a second attempt one month later, but made no attempt to contact her by mail. Mother concedes she was “slow to engage in services” for treatment of her drug abuse, but that she did engage in services after her arrest and incarceration in March 2012. Mother claims the SW failed to refer her to a drug treatment program, and her referrals were only to visitation supervision agencies that the Agency utilized for the visitation of minor dependents with their incarcerated parents.

In Mother's opinion, the SW's, “lack of contact and timeliness in providing . . . crucial referrals” demonstrated the lack of a good faith effort to provide reasonable reunification services. The juvenile court, therefore, erred in its finding of reasonable services and in its denial of further services.

In reviewing the challenged finding, we examine the record in the light most favorable to the juvenile court's order, to determine whether there is substantial evidence from which a reasonable trier of fact could have made the finding under the clear and convincing evidence standard. (*In re Isayah C.* (2004) 118 Cal.App.4th 684, 694.) We construe all reasonable inferences in favor of a finding regarding the adequacy of an agency's reunification plan and the reasonableness of its efforts. (*In re Julie M.* (1999) 69 Cal.App.4th 41, 46 (*Julie M.*)) We likewise resolve conflicts in favor of such a finding and do not reweigh the evidence. (*In re Jasmine C.* (1999) 70 Cal.App.4th 71, 75.)

In light of these principles, we conclude without hesitation that the Agency offered or provided Mother with reasonable services designed to assist her in the reunification with her infant son. As we have noted, the Agency gave Mother, as early as one week

before the filing of its dependency petition on October 27, 2011, referrals for drug abuse evaluation and treatment. Mother received another such referral on January 30, 2012. The juvenile court, at the time it ordered formal detention, authorized the Agency to release J.C. to Mother's supervised care if she entered and remained in a residential drug abuse treatment program. At that time, Mother was placed on notice that it was necessary to engage immediately in services, since they might be terminated after six months if she had not shown substantial progress.

The jurisdictional/dispositional report, the report for the six-month hearing, and the subsequent addendum report, reported the circumstances of Mother's arrests in November of 2011 and in March 2012, as well as Mother's failure to engage in services or visitation during the period of some five months between J.C.'s removal and Mother's second arrest. The SW attempted to connect Mother with inmate services as soon as she learned of Mother's second arrest. Mother's failure to engage in services prior to March 2012 was due to her own lack of interest, and not to any failure on the Agency's part to provide "crucial" referrals. The subsequent disruption of Mother's services was due to her own misconduct in jail, or to circumstances not attributable to the Agency's fault.

The Agency was not obligated to provide the best services possible in an ideal world, but only those that are reasonable under all the circumstances. (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547; *Julie M.*, *supra*, 69 Cal.App.4th at p. 48.) Services may be deemed reasonable when the case plan has identified the problems leading to the loss of custody, the agency has offered services designed to remedy those problems, has maintained reasonable contact with the parent, and has made reasonable efforts to assist the parent in areas in which compliance has proven to be difficult. (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) The record summarized above well supports the juvenile court's finding that the Agency made reasonable efforts to offer or provide Mother with services designed to remedy the problems that led to its intervention on behalf of J.C.

II. Visitation Services

Mother claims the Agency additionally failed to provide her with reasonable visitation with J.C. She objects, particularly, to the Agency's decision to place J.C. with

a maternal relative in Northridge, to the detriment of her own efforts to reunify. In her view, that remote placement enlarged the Agency's duty to support and facilitate her visitation—which the juvenile court had directed to occur twice monthly—yet the Agency failed to meet this obligation.

As previously noted, the Agency deferred its placement of J.C. with a relative in Northridge due to its reluctance to interfere with Mother's expressed desire for visitation, but afterwards pursued the placement when Mother failed to participate in visitation services between the time of her son's initial removal in October 2011 and February 2012, when it filed the section 388 petition for J.C.'s new placement.

Afterwards, the Agency appears to have made every effort to comply with the juvenile court's bi-monthly visitation order, by encouraging and facilitating as much as possible the travel of the foster parents to bring J.C. from Northridge to San Francisco. The failed instances of scheduled visits were due to Mother's own misconduct in jail, or the circumstances of the foster parents' travel, which cannot, on this record, be properly attributed to any fault of the Agency.

We conclude the Agency offered or provided reasonable visitation services, sufficient to support the juvenile court's finding that the Agency, overall, offered or provided to Mother reasonable reunification services.

DISPOSITION

The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development, Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The decision is final in this court immediately. (Cal. Rules of Ct., rules 8.452(i), 8.490(b)(3).)

Marchiano, P.J.

We concur:

Margulies, J.

Dondero, J.